

Appl. No. 10/632,074  
Amdt. dated July 13, 2004  
Reply to Office Action of May 10, 2004

### REMARKS

Claims 1-2 and 4-5 were rejected by the Examiner under 35 U.S.C. 102(e) as being anticipated by U.S. Patent 846,389 to Blackburn (hereinafter Blackburn). Claims 3, 6, 7 and 8 were rejected under 35 U.S.C. 103(a) as being unpatentable over Blackburn in view of U.S. patent 4,570,980 to Goward (hereinafter Goward). Claims 9 and 11 were rejected under 35 U.S.C. 103(a) as being unpatentable over Blackburn in view of U.S. patent 2,525,316 to Schiff (hereinafter Schiff). Claims 10, 12 and 13 were rejected under U.S.C. 103(a) as being unpatentable under Blackburn in view of Schiff and further in view of Goward.

The Examiner's remarks and the references cited therein were carefully reviewed by applicant. In this response, applicant cancelled claims 1, 2, 3, 9, 10. Claims 4, 6, 7, 11, 12 and 13 were amended to overcome the Examiner's rejections. Applicant respectfully submits that the claims as presented herein are allowable over the art of record.

Claims 1-3 were cancelled.

Concerning claims 4 and 5, applicant respectfully submits that Blackburn fails to anticipate applicant's invention. Blackburn teaches an extension handle for an auger. Blackburn's device includes an axially elongate body (block 4), having a rectangular cross section shaft 6 passing therethrough. The shaft 6 includes recesses for receiving pins 12 which are inserted and released into the recesses by spring loaded levers 13 pivotably attached to the body 4. The feature of the shaft passing through the body enables the extension function of Blackburn's invention. Specifically, as the auger drills deeper into the earth, the operator extends the length of the shaft by releasing the pins 12, pulling the shaft out to the desired length and reinserting the pins 12.

This feature contrasts markedly from applicant's coupler as described in the amended claims. Specifically, applicant's coupler includes a first, closed end and a second open end. That feature alone distinguishes applicant's coupler from Blackburn's device (as

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well as the rest of the art cited by the Examiner) because Blackburn's body 4 is open at both ends to facilitate the passage of the shaft 6 therethrough. In contrast, applicant's coupler includes a first, closed end for imparting a driving force to the stake to drive it into the ground. Additionally, while Blackburn's release levers are spring loaded, Blackburn's springs are not retained between the elongate body and the release levers as are applicant's. This feature of applicant's invention is a clearly recited claim limitation appearing in each of the four independent claims. It is not shown or described in Blackburn and cannot be overlooked by the Examiner. Thus, for these reasons, Blackburn fails to anticipate applicant's independent claim 4 and its dependent claim 5, as well.

The recitation of "planar keepers" in claims 6 and 7 was made to add distinction to the fact that applicant's keepers 30 are planar as shown in Figs. 4 & 5. This enables the exertion of an upward force on the underside of the stake head during use, imparting a pulling force thereto. In marked contrast, Goward, cited by the Examiner in combination with Blackburn, discloses a coupling utilizing a staple as a locking device to prevent the coupling from coming undone. Goward's staple 39 includes a notch in each of its legs to cooperate with a corresponding set of recesses within the fluid coupling to prevent removal of the staple. This was provided as a positive locking means for a fluid coupling and differs markedly from the keepers of applicant's invention, in form and function. Further, it should be pointed out that applicant's invention utilizes a pair of planar keepers, each keeper having its own notch. Goward's staple is one piece and has two notches, one in each leg of the staple. So, even if the combination of Blackburn and Goward were made, applicant's pair of planar keepers would not result. For these reasons, the combination of Blackburn and Goward suggested by the Examiner fails to teach or suggest applicant's invention as claimed in claims 6, 7, and 8. Additionally, it should be pointed out that the Blackburn/Goward combination fails to anticipate applicant's invention because it fails to teach or suggest applicant's pair of springs retained between the elongate body and the release levers. This is a clearly recited claim limitation appearing in claim 7 and cannot be overlooked by the Examiner. Claim 8 is dependent on claim 7 and adds further limitation thereto. Thus, for the reasons above, claim 8 should be considered allowable as well.

Appl. No. 10/632,074  
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Claims 9 and 10 were cancelled.

Turning to the Examiner's rejection of claim 11, applicant respectfully asserts that the cited combination of Blackburn and Schiff fails to anticipate applicant's invention. Schiff was cited for the use of a slide hammer. While Schiff does disclose a slide hammer, the addition of Schiff fails to overcome the fact that neither Blackburn nor Schiff, either singly or in combination teaches a coupler having an axially elongate body including a first, closed end and a second, open end. In marked contrast to applicant's invention, both Blackburn and Schiff provide a driving body or coupling having two open ends for enabling the passage of a shaft therethrough. Applicant's coupler, on the other hand, includes a first closed end for imparting a driving force on the stake. The combination asserted by the Examiner fails to teach or suggest this feature of applicant's invention.

The Examiner's rejection of claims 12 and 13, based on a combination of Blackburn, Goward and Schiff also fails for the reasons recited above. Neither Blackburn, Goward, nor Schiff, either singly or in combination, teaches or suggests applicant's coupler having an axially elongate body having a first, closed end and a second, open end. The suggested combination fails to teach or disclose applicant's planar keepers having a notch as well as applicant's pair of springs retained between the elongate body and the release levers. Each of these distinctions appear as positively recited limitations in the claims and cannot be overlooked by the Examiner.

For the basic shortcomings illustrated above, it is respectfully submitted that the Examiner has failed to set forth a *prima facie* case of anticipation. Neither Blackburn, nor Goward nor Schiff, either singly or in combination, anticipates applicant's invention as described in the amended claims.

In view of the foregoing, it is respectfully submitted that the claims, as amended, should be considered allowable. Claims 4 and 5, as amended, clearly patentably distinguish over Blackburn. Claims 6, 7, 8, as amended, clearly patentably distinguish over the combination of Blackburn and Goward. Claim 11, as amended, clearly patentably

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distinguishes over the combination of Blackburn and Schiff. And lastly, claims 12 and 13, as amended, clearly, patentably distinguish over the combination of Blackburn, Goward and Schiff.

Respectfully submitted,

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